

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

KELLY CAHILL, SARA JOHNSTON,) Case No.
LINDSAY ELIZABETH, and HEATHER) 3:18-cv-01477-JR
HENDER, individually and on)
behalf of others similarly)
situated,)
)
Plaintiff,)
)
vs.)
)
NIKE, INC., an Oregon)
Corporation,)
)
Defendants.)
_____)

VIDEO-RECORDED VIDEOCONFERENCE
DEPOSITION OF TRACEE CHENG
Wednesday, December 2, 2020
Volume I

Reported by:
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CSR No. 9482
Job No. 4347600
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1 hanging out with his wife and basically went to work
2 drunk. He was probably also on drugs, and I had to make
3 sure that nobody can see that he was hiding under his
4 desk.

5 And, you know, working with -- despite his 10:53AM
6 remarks about people's breasts and, you know, what they
7 look like and, you know, how young they look or
8 whatever, all of that, despite all of that, I
9 overachieved, and I still didn't get a "highly
10 successful." 10:53AM

11 Q And who are you talking about?

12 A Which part?

13 Q That made the comment, that came in drunk and
14 may be on drugs?

15 A [REDACTED]. 10:54AM

16 Q Did you make any complaints to HR about his
17 behavior?

18 A I did not. I was talking to some of my female
19 colleagues and they told me that, you know, there may be
20 retaliation involved because if I ever want to move onto 10:54AM
21 a bigger role, which, of course, as you can tell that I
22 did, that they do need to talk to your current or
23 previous managers, and if you talk to -- if you get him
24 in trouble, that he may not give you a good review or
25 anything like that and you will be stuck in that role. 10:54AM

1 And so -- so I didn't. But I did talk to a few of my
2 colleagues, yes.

3 Q Who did you talk to about this?

4 A I talked to [REDACTED] I talked to --
5 oh, goodness, I forget the names already, but there are 10:55AM
6 a few other people that I talked to.

7 I do know for a fact that [REDACTED] was
8 aware that he was not doing his job, that he was
9 underperforming. I had gone to him a few times talking
10 about the possibility of a move to his team and that he 10:55AM
11 agreed that he -- that [REDACTED] was not performing at
12 his level and that I was actually, you know, doing his
13 job. So yeah. I've talked to a few people about that
14 situation.

15 Q Who was the male that you said received the 10:55AM
16 "highly successful" rating?

17 A Caleb Moyer, I believe.

18 Q What was his title?

19 A I believe at that time he was probably senior
20 or product manager or product -- something like that. 10:56AM
21 It was a product role. And he came in to Nike and he
22 was -- I believe he was an IT manager at TGI Fridays,
23 and since he joined Nike, his career just -- you know,
24 went -- you know, it was incredibly successful at Nike,
25 and I believe he is either a senior director or 10:56AM

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1 So yes. Kind of roundabout answer, yes. It is lower
2 based on gender.

3 Q Do you believe that there are any other facts
4 showing that the PSP bonus you received was based on
5 your gender?

01:47PM

6 A You mean other than the lower base salary and
7 the sexual harassment that's been encircling my job, my
8 first job, and also not being able to participate in
9 high visibility programs that would likely deliver
10 higher bonuses? Yeah.

01:48PM

11 I would say -- other than those things and
12 other than, you know, what's in my EEOC charge, I would
13 say, yeah, not that I can recall at this moment.

14 Q Do you mind describing the circumstances of
15 your sexual harassment?

01:48PM

16 A Sure. So this started the night of the --
17 actually, it started before that. So [REDACTED], has
18 always been very kind of touchy-feely. So when we're
19 looking at something, he tends to be much closer to me
20 physically than I'm comfortable with, and I've told him
21 before about that. And, you know, he kind of brushes it
22 off as, you know, hey, we're just being friendly here.

01:48PM

23 What's really dawned on me as kind of a --
24 something that's out of the ordinary was the night of
25 the Christmas party, he was drunk. And after talking to

01:49PM

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1 my colleagues, I learned that he was also taking drugs
2 and driving his direct reports home that night.

3 The next morning he came to work, he was
4 hungover and he was definitely not doing well. And then
5 he told me that, you know, he's having issues with his 01:49PM
6 wife and to tell me to go snowboarding with her to talk
7 her out of filing a divorce, which later I learned was
8 because that night he slept with one of his subordinates
9 and that that subordinate later -- well, right after
10 that, she quit. 01:50PM

11 So during that year, he was taking a lot of
12 time off work while -- I don't know if he did it
13 officially, but he was not there most of the time. And
14 that he was -- he was doing a lot of therapy sessions
15 with his wife. And even during that time I've seen him 01:50PM
16 make comments about the size of my colleague's breasts.
17 So -- and those happened on multiple occasions, you
18 know, the size of the cup and things like that.

19 He's also talked to me a lot about going to
20 strip clubs. He didn't really say exactly who with, but 01:50PM
21 he frequented strip clubs and he liked to talk about
22 which ones he preferred.

23 And then the second incident with the
24 subordinate was when another employee was starting to
25 mention sexual harassment or starting to bring that up 01:51PM

1 about him, that he immediately dismissed her. He
2 immediately asked her to leave the company. So that was
3 the second time that another employee at Nike has had
4 direct experience with sexual harassment that really,
5 really spoke up about it. 01:51PM

6 And, I mean, like I said before, I've talked
7 to my colleagues, and I've talked to, you know, just
8 talking about should I speak up? Should I, you know, do
9 something about it? I don't think that any of the stuff
10 he's done is appropriate. 01:52PM

11 I've been told that I could face retaliation
12 because ultimately he is the one that would either
13 recommend a transfer or a promotion or a CFE rating,
14 performance reviews. Anything that has to do with my
15 career mobility and compensation, he can retaliate. 01:52PM

16 And seeing that, you know, he asked the other
17 employee to leave or basically terminated her employment
18 just by mentioning something like that, it was clear to
19 me that I should just find a way to get out of that team
20 as quickly as possible and to protect myself. 01:52PM

21 Q Who said that you might face retaliation if
22 you go to HR with your complaints?

23 A There were more than one person. Mostly --
24 well, [REDACTED] actually said that I need to talk
25 to HR about this, and she was the only person who did 01:53PM

1 THE REPORTER: Thank you.

2 Q BY MS. LUEDDEKE: And which subordinate did
3 [REDACTED] sleep with?

4 A [REDACTED].

5 Q How do you know that? 01:59PM

6 A Afterwards, like after a lot of therapy with
7 his wife, he finally told me exactly what happened and
8 that they were going to stay together and he was very
9 happy about that. So he told me everything.

10 Q He told you that he slept with [REDACTED]? 02:00PM

11 A Yes.

12 Q Who was the employee that you referred to that
13 mentioned something about sexual harassment to
14 [REDACTED] and that he later dismissed?

15 A Her name is [REDACTED] [REDACTED] 02:00PM

16 [REDACTED]

17 Q Do you know if she was fired?

18 A She was a contractor. So basically when this
19 came up, he told her -- her manager to let her go.

20 Q Do you know if the allegation of sexual 02:01PM
21 harassment was the only reason why Nike let [REDACTED] go?

22 A I don't know for sure, but it happened really,
23 really quickly, within the same day. So it came up. He
24 went over to the hiring manager, and she was walked out
25 of the company by the end of the day. 02:01PM

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1 Q How do you know that [REDACTED] complained about
2 sexual harassment?

3 A She has talked to me in passing just a -- you
4 know, a few times. I mean, [REDACTED], you know, demeanor
5 and, you know, the way he acts with female employees was 02:02PM
6 well-known and, you know, people talk about it and
7 things like that. And so when people were talking about
8 [REDACTED] leaving and that it was because he was sleeping
9 with her, she actually mentioned to a group of us that,
10 yeah, he was making a pass at me too, and he has a -- he 02:02PM
11 wants to have a meeting with me. I wonder if he wants
12 to do anything more. That's how I knew about it.

13 I -- of course I also hear from [REDACTED] that, you
14 know, she's crazy and she's making all this stuff up and
15 stuff like that. So I don't know if she's crazy, 02:03PM
16 probably a doctor can tell you. But given his
17 reputation, given everything that's going on, you know,
18 you can make your own conclusions there.

19 Q You said that [REDACTED] was asked to leave the
20 same day or shortly after her complaint? 02:03PM

21 A Uh-huh.

22 Q How do you know when she made her complaints
23 of sexual harassment?

24 A I knew that she was -- I was actually on
25 vacation when that happened, and I was actually 02:03PM

1 literally driving when that happened. And I knew that
2 earlier, like a few days before that she said that she
3 was going to have a meeting with [REDACTED], that was, you
4 know, shortly after she was telling people about how he
5 made a pass at her or something like that.

02:03PM

6 And then when I was driving on my vacation, I
7 got a text that said, hey, you know, I was fired today.
8 That was fast, you know. So that's how I knew about it.

9 Q Do you know any details of the meeting that
10 allegedly happened between [REDACTED] and [REDACTED]
11 where she was going to address the sexual harassment?

02:04PM

12 A No.

13 Q You said the woman that [REDACTED] slept
14 with left Nike?

15 A Yes.

02:04PM

16 Q Was she fired?

17 A No. She quit.

18 Q You said that there were other women that
19 [REDACTED] had made passes at?

20 A Uh-huh. Yes.

02:04PM

21 Q Who were they?

22 A Just a few, [REDACTED].
23 Usually people that are his subordinates that has had
24 experiences like that.

25 Q You said that you didn't go to HR with any of

02:05PM

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1 Q You said when you were put back on the
2 project. Is that the digital photography project?

3 A Yes.

4 Q When were you put back on the digital
5 photography project?

02:30PM

6 A It was around the time when [REDACTED] told
7 me to code, and I approached HR, and HR dismissed my
8 concerns and said, you know, you have to do whatever
9 your manager tells you to do.

10 I approached [REDACTED] and said, you know,
11 this -- this is not right. I am not happy with the
12 situation. I came back from maternity leave, and I'm --
13 you know, I'm worse off, career-wise, than I was before
14 I left. Either, you know, work with me on rectifying
15 this situation within your org or help me transition out
16 of your org to something else because I'm not happy with
17 what's going on here.

02:30PM

02:30PM

18 And him and [REDACTED] talked about that and decided
19 that they could use my help on the project. So I was
20 put back on.

02:30PM

21 Q What project were you put on when you returned
22 from leave?

23 A The little projects, like the brand leader
24 board and such.

25 Q Who else was on this project?

02:31PM

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CERTIFICATE OF CERTIFIED SHORTHAND REPORTER

I, Rochelle Holmes, the undersigned, a Certified Shorthand Reporter of the State of California, do hereby certify:

That the foregoing proceedings were taken before me via videoconference; that any witnesses in the foregoing proceedings, prior to testifying, were administered an oath; that a record of the proceedings was made by me using machine shorthand which was thereafter transcribed under my direction; that the foregoing transcript is a true record of the testimony given.

Further, that if the foregoing pertains to the original transcript of a deposition in a Federal Case, before completion of the proceedings, review of the transcript [] was [X] was not requested.

I further certify I am neither financially interested in the action nor a relative or employee of any attorney or any party to this action.

IN WITNESS WHEREOF, I have this date subscribed my name.

Dated: December 20, 2020

A handwritten signature in cursive script that reads "Rochelle Holmes". The signature is written in black ink and is positioned above a horizontal line.

Rochelle Holmes

CSR No. 9482, CCRR No. 0123